

BEFORE THE
STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation
Against:

MARTIN C. AGUINAGA
2121 N. Moreno Court
Visalia, CA 93291

Applicator License No. RA 50864

Respondent.

Case No. 2011-72(g)

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the
Structural Pest Control Board, Department of Consumer Affairs, as its Decision in this matter.

The Decision shall become effective on December 1, 2013.

IT IS SO ORDERED November 1, 2013.



FOR THE STRUCTURAL PEST CONTROL BOARD
DEPARTMENT OF CONSUMER AFFAIRS

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9 **BEFORE THE**
STRUCTURAL PEST CONTROL BOARD
10 **DEPARTMENT OF PESTICIDE REGULATION**
STATE OF CALIFORNIA

11 In the Matter of the First Amended Accusation
12 Against:

13 **MARTIN C. AGUINAGA**
2121 N. Moreno Ct.
14 Visalia, CA 93291

15 **Applicator License No. RA 50864**

16 Respondent.
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Case No. 2011-72(g)

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

(MARTIN C. AGUINAGA ONLY)

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19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. William H. Douglas (Complainant) was the former Interim Registrar/Executive
23 Officer of the Structural Pest Control Board. He brought these actions solely in his official
24 capacity. Susan Saylor is the current Interim Registrar/Executive Officer of the Structural Pest
25 Control Board. She maintains these actions solely in her official capacity and is represented in
26 this matter by Kamala D. Harris, Attorney General of the State of California, by Phillip L. Arthur,
27 Deputy Attorney General.

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2. Respondent Martin C. Aguinaga (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about April 30, 2010, the Structural Pest Control Board issued Applicator License No. RA 50864 to Martin C. Aguinaga (Respondent). The Applicator License was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 2011-72(g) and expired on April 30, 2013.

JURISDICTION

4. First Amended Accusation No. 2011-72(g) was filed before the Structural Pest Control Board (Board), Department of Pesticide Regulation, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on September 5, 2012. Respondent timely appeared, waived his right to a hearing, and requested settlement terms.

5. A copy of First Amended Accusation No. 2011-72(g) is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in First Amended Accusation No. 2011-72(g) as they relate to his individually held license. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation as they relate to his individually held license; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in First Amended Accusation No. 2011-72(g) as they relate to his individually held license.

10. Respondent agrees that his Applicator License is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Structural Pest Control Board. Respondent understands and agrees that counsel for Complainant and the staff of the Structural Pest Control Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that electronic or facsimile copies of this Stipulated Settlement and Disciplinary Order, including electronic or facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Applicator License No. RA 50864, issued to Respondent Martin C. Aguinaga, is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws and all laws and rules relating to the practice of structural pest control.

2. **Quarterly Reports.** Respondent shall file quarterly reports with the Board during the period of probation.

3. **Tolling of Probation.** Should Respondent leave California to reside outside this state, Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state shall not apply to reduction of the probationary period.

4. **Notice to Employers.** Respondent shall notify all present and prospective employers of the decision in case no. 2011-72(g) and the terms, conditions and restrictions imposed on Respondent by said decision.

Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his employer to report to the Board in writing acknowledging the employer has read the decision in case no. 2011-72(g).

5. **Notice to Employees.** Respondent shall, upon or before the effective date of this decision, post or circulate a notice to all employees involved in structural pest control operations which accurately recite the terms and conditions of probation. Respondent shall be responsible for said notice being immediately available to said employees. "Employees" as used in this provision includes all full-time, part-time, temporary and relief employees and independent contractors employed or hired at any time during probation.

6. **Completion of Probation.** Upon successful completion of probation, Respondent's license will be fully restored.

1 7. **Violation of Probation.** Should Respondent violate probation in any respect, the
2 Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and
3 carry out the disciplinary order which was stayed. If a petition to revoke probation is filed against
4 Respondent during probation, the Board shall have continuing jurisdiction until the matter is final,
5 and the period of probation shall be extended until the matter is final.

6 8. **Random Inspections.** Respondent shall reimburse the Board for one (1) random
7 inspection per quarter by Board specialists during the period of probation not to exceed \$125 per
8 inspection.


9 9. **Future Applications.** Should Respondent apply for a license during the period of
10 probation, and should the Board issue said license, the issuance of said license shall be under the
11 same terms and conditions and probationary term as set forth herein.

12 10. **Cost Recovery.** Respondent shall reimburse the Board for its costs of investigation
13 and enforcement in these matters in the pro rata amount of \$1,747.00. Said amount may be paid
14 in monthly installments as agreed by the Board, and shall be paid in full no later than six (6)
15 months before the end of probation. Probation shall not be terminated until the costs are paid in
16 full.

17 ACCEPTANCE

18 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
19 stipulation and the effect it will have on my Applicator License. I enter into this Stipulated
20 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
21 bound by the Decision and Order of the Structural Pest Control Board.

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23 DATED: 7.22.13

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25 MARTIN C. AGUINAGA, RA 50864
26 Respondent
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Dated: 7/25/13

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General

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